

REMARKS

Claims 1-17 are pending in this application.

Applicant has amended claims 1, 14, 16, and 17. The changes to the claims made herein do not introduce any new matter.

Rejections Under 35 U.S.C. § 101

Applicant respectfully requests reconsideration of the rejection of claims 1-13 and 16 under 35 U.S.C. § 101 as being directed toward non-statutory subject matter. Applicant has amended independent claim 1 to specify that each of the modules of the image processing apparatus is executed by a microprocessor. Applicant has amended independent claim 16 to specify that the extraction unit, the operator, the selector, and the image composition unit are executed by a microprocessor.

As understood by Applicant, the Office's "Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101" ("the Interim Examination Instructions") require a "particular machine," which can be a general-purpose processor executing a specific algorithm described in terms of the functions that the algorithm performs (the paper setting forth the Interim Examination Instructions is available at:

http://www.uspto.gov/web/offices/pac/dapp/opla/2009-08-25_interim_101_instructions.pdf).

Present claims 1 and 16 define particular machines in accordance with the Office's Interim Examination Instructions. As such, present claims 1 and 16 define statutory subject matter under 35 U.S.C. § 101. Accordingly, Applicant requests that the rejection of claims 1-13 and 16 under 35 U.S.C. § 101 be withdrawn.

Applicant respectfully requests reconsideration of the rejection of claims 14 and 15 under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. Applicant has amended independent claim 14 to specify that each step of the image processing method is executed by a microprocessor. As such, the method defined in present

claim 14 is tied to a particular machine. Therefore, the method defined in present claim 14 qualifies as a statutory process. Accordingly, Applicant requests that the rejection of claims 14 and 15 under 35 U.S.C. § 101 be withdrawn.

Rejection Under 35 U.S.C. § 102

Applicant respectfully requests reconsideration of the rejection of claims 1-3, 8-10, 12-14, 16, and 17 under 35 U.S.C. § 102(b) as being anticipated by *Peleg et al.* (“*Peleg*”) (WO 98/02844). As will be explained in more detail below, the *Peleg* reference does not disclose each and every feature of the subject matter defined in independent claims 1, 14, 16, and 17, as amended herein.

Applicant has amended each of independent claims 1, 14, 16, and 17 to distinguish the claimed subject matter from that shown in the *Peleg* reference. In particular, Applicant has amended the claims to specify that 1) the computed degree of deviation is small to such an extent that the at least two images are regarded as those of the same subject (i.e., the claimed subject matter uses multiple photographic images of the same subject), and 2) the one still image generated has a resolution higher than that of any of the at least two images to be combined (i.e., the claimed subject matter combines multiple photographic images of the same subject to generate a still image that has a resolution higher than that of any image used for the composition).

The *Peleg* reference discloses a method and apparatus for mosaic image construction. *Peleg* calls the two-dimensional merging of aligned satellite images a “mosaic.” Thus, the *Peleg* reference relates to so-called panoramic photography. The *Peleg* reference does not disclose the claimed image composition technique or the concept of combining multiple images extracted from the same area to generate a high quality image. The *Peleg* reference discloses what should be done when areas of a photograph overlap; however, what is disclosed is that a frame of the highest resolution from multiple overlapping images is

selected, and *Peleg* does not merge images in an overlapping area. Also, *Peleg* does not teach a process of eliminating undesirable images from the images to be merged.

As noted above, the presently claimed subject matter specifies that the computed degree of deviation is small to such an extent that the at least two images are regarded as those of the same subject. In contrast, the *Peleg* reference uses multiple adjacent images. Further, the presently claimed subject matter specifies that the one still image generated has a resolution higher than that of any of the at least two images to be combined. In contrast, the *Peleg* reference chooses an image having the highest resolution among the multiple adjacent images when they overlap.

In view of the foregoing, the *Peleg* reference does not disclose each and every feature of the subject matter defined in present claims 1, 14, 16, and 17.

Accordingly, independent claims 1, 14, 16, and 17, as amended herein, are patentable under 35 U.S.C. § 102(b) over *Peleg*. Claims 2, 3, 8-10, 12, and 13, each of which ultimately depends from claim 1, are likewise patentable under 35 U.S.C. § 102(b) over *Peleg* for at least the same reasons set forth above with regard to claim 1.

In addition, with regard to claim 13, the *Peleg* reference discloses only that an image having poor exposure may be excluded from a set of images to be merged. In contrast, the claimed subject matter sets a threshold range based on the exposure time information. As such, the *Peleg* reference does not disclose each and every feature of the subject matter defined in claim 13.

Rejection Under 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of claims 4-7 and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Peleg* in view of *Sumitomo et al.* (“*Sumitomo*”) (US 2002/0051072 A1). Each of claims 4-7 depends from claim 1, and claim 15 depends from claim 14. The *Sumitomo* reference does not cure the above-discussed

deficiencies of the *Peleg* reference relative to the subject matter defined in present claims 1 and 14. Accordingly, claims 4-7 and 15 are patentable under 35 U.S.C. § 103(a) over the combination of *Peleg* in view of *Sumitomo* for at least the reason that each of these claims depends from either claim 1 or claim 14.

Obviousness-Type Double Patenting Rejections

Applicant respectfully requests reconsideration of the rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of *Aiso* (US 7,327,494 B2). As noted above, Applicant has amended claim 1. Applicant respectfully submits that the subject matter defined in present claim 1 is not an obvious variation of the subject matter defined in claim 1 of *Aiso*. Accordingly, Applicant requests that the rejection of claim 1 for obviousness-type double patenting based on claim 1 of *Aiso* be withdrawn.

Applicant respectfully requests reconsideration of the provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/541,479 to *Aiso* ("the *Aiso* application"). Applicant respectfully submits that the subject matter defined in present claim 1 is not an obvious variation of the subject matter defined in present claim 1 of the *Aiso* application (in this regard, Applicant notes that claim 1 of the *Aiso* application has been amended since the issuance of the subject Office Action). Accordingly, Applicant requests that the provisional rejection of claim 1 for obviousness-type double patenting based on claim 1 of the *Aiso* application be withdrawn.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1-17, as amended herein, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the

event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at **(408) 749-6902**. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP188).

Respectfully submitted,
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